

MONTANA LEGISLATIVE HISTORY

Chapter 397 1999

Bill H 255 S _____

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) 1/18 ☒ c

~~to EXEC. ACTION~~

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 3/19 ☒ c

3/25 ☒ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HB 251 Introduced by Jore *LC0816 Drafter: MacMaster*

Revise the Laws Governing the Dissolution of Marriage;...

1/11 Introduced and 1st Reading
 1/11 Referred to Judiciary
 1/20 Hearing
 1/25 Tabled in Committee
 3/01 Missed Deadline for General Bill Transmittal

HB 252 Introduced by Mood, et al. *LC1239 Drafter: Higgins*

Provide Appropriations for the Jobs and Income Program;...

By Request of Joint Select Committee on Jobs and Income

1/11 Introduced and 1st Reading
 1/11 Referred to Joint Select Committee on Jobs and Income
 1/15 Hearing
 1/19 Committee Executive Action--Bill Passed as Amended 10 0
 1/19 Committee Report--Bill Passed as Amended
 1/25 Rereferred to Appropriations
 2/01 Hearing
 3/15 Tabled in Committee
 3/19 Committee Executive Action--Bill Passed as Amended 12 6
 3/20 Taken from Table in Committee
 3/22 Committee Report--Bill Passed as Amended
 3/23 2nd Reading Passed as Amended 75 25
 3/25 3rd Reading Passed 77 23

Transmitted to Senate
 3/26 Referred to Finance and Claims
 4/06 Hearing
 4/09 Tabled in Committee
 Died in Standing Committee

HB 253 Introduced by Jore *LC0624 Drafter: Heiman*

Repeal State Inheritance Taxes;...

11/19 Fiscal Note Needed
 1/11 Introduced and 1st Reading
 1/11 Referred to Taxation
 1/11 Fiscal Note Requested
 1/16 Fiscal Note Received
 1/18 Fiscal Note Signed
 1/18 Fiscal Note Printed
 1/21 Hearing
 3/05 Tabled in Committee
 3/24 Taken from Committee; Placed on 2nd Reading
 3/25 2nd Reading Passed as Amended 77 23
 3/27 3rd Reading Passed 78 18

Transmitted to Senate
 3/29 Referred to Taxation
 4/09 Hearing
 4/13 Tabled in Committee
 Died in Standing Committee

HB 254 Introduced by Somerville *LC1248 Drafter: Sternberg*

Clarify the Powers of the Montana Mint Committee to Contract to Promote Research of and Market Development for Mint;...

1/11 Introduced and 1st Reading
 1/11 Referred to Agriculture
 1/21 Hearing
 1/22 Committee Executive Action--Bill Passed as Amended 18 1
 1/23 Committee Report--Bill Passed as Amended
 1/26 2nd Reading Passed 92 4
 1/27 3rd Reading Passed 93 5

Transmitted to Senate
 1/28 Referred to Agriculture, Livestock and Irrigation
 2/03 Hearing
 2/04 Committee Executive Action--Bill Concurred 11 0
 2/04 Committee Report--Bill Concurred
 2/09 2nd Reading Concurred 49 0
 2/10 3rd Reading Concurred 49 0

Returned to House
 2/10 Sent to Enrolling
 2/11 Returned from Enrolling
 2/13 Signed by Speaker
 2/13 Signed by President
 2/16 Transmitted to Governor
 2/18 Signed by Governor
 2/20 Chapter Number Assigned
 Chapter Number 22
 Effective Date: 7/01/1999 - All Sections

HB 255 Introduced by Anderson *LC0627 Drafter: MacMaster*

Increase to \$1,000 the Amount Required to Be Involved in Various Crimes Before Penalties for Those Crimes Are Enhanced;...

1/11 Introduced and 1st Reading
 1/11 Referred to Judiciary
 1/11 Fiscal Note Requested
 1/18 Fiscal Note Received
 1/18 Fiscal Note Signed
 1/18 Fiscal Note Printed
 1/18 Hearing
 1/18 Committee Executive Action--Bill Passed 17 1
 1/19 Committee Report--Bill Passed
 1/22 2nd Reading Passed 92 6
 1/23 3rd Reading Passed 95 4

Transmitted to Senate
 1/27 Referred to Judiciary
 3/19 Hearing
 3/26 Committee Executive Action--Bill Concurred as Amended 8 0
 3/26 Committee Report--Bill Concurred as Amended
 3/27 2nd Reading Concurred 45 2
 3/29 3rd Reading Concurred 42 5

Returned to House with Amendments

4/13	2nd Reading Senate Amendments Concurred	86	11
4/14	3rd Reading Passed as Amended by Senate	88	11
4/14	Sent to Enrolling		
4/15	Returned from Enrolling		
4/16	Signed by Speaker		
4/16	Signed by President		
4/16	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 397		
	Effective Date: 10/01/1999 - All Sections		

HB 256 Introduced by Cobb *LC0846 Drafter: Heffelfinger*

Provide a State Contribution to the Deferred Compensation Plan Accounts of Certain Eligible State Employees;...

1/12	Introduced and 1st Reading		
1/12	Referred to State Administration		
1/12	Fiscal Note Requested		
1/19	Fiscal Note Received		
1/19	Fiscal Note Signed		
1/20	Fiscal Note Printed		
1/27	Hearing		
2/09	Tabled in Committee		
3/26	Missed Deadline for Appropriation Bill Transmittal		

HB 257 Introduced by Younkin, et al. *LC0937 Drafter: Lane*

Impose an Additional Surcharge upon Criminal Convictions to Finance Local Victim and Witness Advocate Programs;...

1/12	Introduced and 1st Reading		
1/12	Referred to Judiciary		
1/12	Fiscal Note Requested		
1/15	Fiscal Note Received		
1/15	Fiscal Note Signed		
1/16	Fiscal Note Printed		
1/19	Revised Fiscal Note Requested		
1/21	Hearing		
1/22	Revised Fiscal Note Received		
1/23	Revised Fiscal Note Signed		
1/25	Committee Executive Action--Bill Passed as Amended	14	6
1/25	Revised Fiscal Note Printed		
1/26	Committee Report--Bill Passed as Amended		
1/28	2nd Reading Passed	87	12
1/29	3rd Reading Passed	86	9

1/30	Transmitted to Senate		
3/22	Referred to Judiciary		
3/22	Hearing		
3/24	Committee Executive Action--Bill Concurred as Amended	8	0
3/24	Committee Report--Bill Concurred as Amended		
3/26	2nd Reading Concurred	48	0
3/27	3rd Reading Concurred	49	0

4/13	Returned to House with Amendments		
	2nd Reading Senate Amendments Concurred	97	3

4/14	3rd Reading Passed as Amended by Senate	87	12
4/14	Sent to Enrolling		
4/15	Returned from Enrolling		
4/16	Signed by Speaker		
4/16	Signed by President		
4/16	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 398		
	Effective Date: 7/01/1999 - All Sections		

HB 258 Introduced by Cobb *LC1075 Drafter: Heffelfinger*

Provide an Appropriation for Online Internet Access to Information Collected by the Commissioner of Political Practices;...

1/12	Introduced and 1st Reading		
1/12	Referred to State Administration		
1/27	Hearing		
2/09	Committee Executive Action--Bill Passed as Amended	17	0
2/10	Committee Report--Bill Passed as Amended		
2/12	2nd Reading Passed	72	28
2/13	3rd Reading Passed	78	22

	Transmitted to Senate		
2/22	Referred to State Administration		
3/02	Hearing		
3/05	Committee Executive Action--Bill Concurred	5	0
3/06	Committee Report--Bill Concurred		
3/08	Taken from 2nd Reading; Rereferred to Finance and Claims	50	0
3/12	Hearing		
3/19	Tabled in Committee		
	Died in Standing Committee		

HB 259 Introduced by R. Johnson *LC0678 Drafter: C. Erickson*

Authorize the Department of Administration to Negotiate Transportation Contracts with Certain Intrastate Transportation Providers;...

1/12	Introduced and 1st Reading		
1/12	Referred to Transportation		
1/12	Fiscal Note Requested		
1/18	Hearing		
1/20	Fiscal Note Received		
1/21	Fiscal Note Printed		
2/08	Tabled in Committee		
3/01	Missed Deadline for General Bill Transmittal		

HB 260 Introduced by Mood, et al. *LC1434 Drafter: Higgins*

Encourage Economic Development Through Investment in Research and Commercialization Projects;...

By Request of Joint Select Committee on Jobs and Income

12/31	Fiscal Note Needed		
1/12	Introduced and 1st Reading		
1/12	Referred to Joint Select Committee on Jobs and Income		

H BILL NO. 255INTRODUCED BY Michelle Anderson
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING TO \$1,000 THE AMOUNT REQUIRED TO BE INVOLVED IN VARIOUS CRIMES BEFORE PENALTIES FOR THOSE CRIMES ARE ENHANCED; INCREASING TO \$1,000 THE POSSIBLE FINE FOR THOSE CRIMES WHEN THE AMOUNT INVOLVED IN THOSE CRIMES IS LESS THAN \$1,000; AND AMENDING SECTIONS 45-2-101, 45-6-101, 45-6-103, 45-6-301, 45-6-309, 45-6-311, 45-6-312, 45-6-313, 45-6-316, 45-6-317, 45-6-325, AND 45-7-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-2-101, MCA, is amended to read:

"45-2-101. General definitions. Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) "Administrative proceeding" means ~~any~~ a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) "Another" means a person or persons, as defined in this code, other than the offender.

(4) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to ~~any~~ a other person or entity in whose welfare the beneficiary is interested. Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) "Bodily injury" means physical pain, illness, or ~~any~~ an impairment of physical condition and includes mental illness or impairment.

(6) "Cohabit" means to live together under the representation of being married.

(7) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the

1 same offense or that affects the same person or the same persons or the property of the same person
2 or persons.

3 (8) "Computer" means an electronic device that performs logical, arithmetic, and memory
4 functions by the manipulation of electronic or magnetic impulses and includes all input, output,
5 processing, storage, software, or communication facilities that are connected or related to that device
6 in a system or network.

7 (9) "Computer network" means the interconnection of communication systems between
8 computers or computers and remote terminals.

9 (10) "Computer program" means an instruction or statement or a series of instructions or
10 statements, in a form acceptable to a computer, that in actual or modified form permits the functioning
11 of a computer or computer system and causes it to perform specified functions.

12 (11) "Computer services" include but are not limited to computer time, data processing, and
13 storage functions.

14 (12) "Computer software" means a set of computer programs, procedures, and associated
15 documentation concerned with the operation of a computer system.

16 (13) "Computer system" means a set of related, connected, or unconnected devices, computer
17 software, or other related computer equipment.

18 (14) "Conduct" means an act or series of acts and the accompanying mental state.

19 (15) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or
20 upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of
21 competent jurisdiction authorized to try the case without a jury.

22 (16) "Correctional institution" means the state prison, county or city jail, or other institution for
23 the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for
24 offenses.

25 (17) "Deception" means knowingly to:

26 (a) create or confirm in another an impression that is false and that the offender does not believe
27 to be true;

28 (b) fail to correct a false impression that the offender previously has created or confirmed;

29 (c) prevent another from acquiring information pertinent to the disposition of the property
30 involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(18) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(19) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(20) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

(21) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(22) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in the state prison for ~~any~~ a term exceeding 1 year.

(23) "Forcible felony" means ~~any~~ a felony that involves the use or threat of physical force or violence against any individual.

(24) A "frisk" is a search by an external patting of a person's clothing.

(25) "Government" includes ~~any~~ a branch, subdivision, or agency of the government of the state or ~~any~~ a locality within it.

(26) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to ~~any~~ a person or entity in whose welfare the affected person is interested.

(27) A "house of prostitution" means ~~any~~ a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(28) "Human being" means a person who has been born and is alive.

(29) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention.

(30) "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

(31) "Intoxicating substance" means ~~any~~ a controlled substance, as defined in Title 50, chapter 32, and ~~any~~ an alcoholic beverage, including but not limited to ~~any~~ a beverage containing 1/2 of 1% or more of alcohol by volume. Intoxicating substance does not include dealcoholized wine or ~~any~~ a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

(32) An "involuntary act" means ~~any~~ an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(33) "Juror" means ~~any~~ a person who is a member of ~~any~~ a jury, including a grand jury, impaneled by ~~any~~ a court in this state in ~~any~~ an action or proceeding or by ~~any~~ an officer authorized by law to impanel a jury in ~~any~~ an action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective juror.

(34) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning.

(35) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter

6.

(36) "Medicaid agency" has the meaning in 53-6-155.

(37) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(38) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic, or other form:

(i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or

(ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program.

(b) The term includes any related documents submitted as a part of or in support of the claim.

(39) "Mentally defective" means that a person suffers from a mental disease or defect that renders the person incapable of appreciating the nature of the person's own conduct.

(40) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or controlling the person's own conduct as a result of the influence of an intoxicating substance.

(41) "Misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for ~~any~~ a term or a fine, or both, or for which the sentence imposed is imprisonment in the state prison for ~~any~~ a term of 1 year or less.

(42) "Negligently"--a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning.

(43) "Obtain" means:

(a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance of the labor or service.

(44) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(45) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(46) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(47) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors.

(48) "Official detention" means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or ~~any~~ lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society. Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(49) "Official proceeding" means a proceeding heard or that may be heard before ~~any~~ a legislative, a judicial, an administrative, or ~~other~~ another governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding.

(50) "Other state" means ~~any~~ a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(51) "Owner" means a person other than the offender who has possession of or ~~any~~ other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(52) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility.

(53) "Peace officer" means ~~any~~ a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority.

(54) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(55) "Person" includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of ~~any~~ a government or subdivision of government.

(56) "Physically helpless" means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(57) "Possession" is the knowing control of anything for a sufficient time to be able to terminate control.

(58) "Premises" includes any type of structure or building and ~~any~~ real property.

(59) "Property" means ~~any~~ a tangible or intangible thing of value. Property includes but is not limited to:

(a) real estate;

(b) money;

(c) commercial instruments;

(d) admission or transportation tickets;

(e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;

(f) things growing on, affixed to, or found on land and things that are part of or affixed to ~~any~~ a building;

(g) electricity, gas, and water;

(h) birds, animals, and fish that ordinarily are kept in a state of confinement;

(i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

(j) ~~any~~ other articles, materials, devices, substances, and ~~any~~ whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or

1 record secret scientific, technical, merchandising, production, or management information or a secret
2 designed process, procedure, formula, invention, or improvement; and

3 (k) electronic impulses, electronically processed or produced data or information, commercial
4 instruments, computer software or computer programs, in either machine- or human-readable form,
5 computer services, any other tangible or intangible item of value relating to a computer, computer system,
6 or computer network, and any copies thereof.

7 (60) "Property of another" means real or personal property in which a person other than the
8 offender has an interest that the offender has no authority to defeat or impair, even though the offender
9 may have an interest in the property.

10 (61) "Public place" means any a place to which the public or any a substantial group has access.

11 (62) "Public servant" means any an officer or employee of government, including but not limited
12 to legislators, judges, and firefighters, and any a person participating as a juror, advisor, consultant,
13 administrator, executor, guardian, or court-appointed fiduciary. The term does not include witnesses. The
14 term "public servant" includes one who has been elected or designated to become a public servant.

15 (63) "Purposely"--a person acts purposely with respect to a result or to conduct described by a
16 statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that
17 result. When a particular purpose is an element of an offense, the element is established although the
18 purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law
19 defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same
20 meaning.

21 (64) (a) "Serious bodily injury" means bodily injury that:

22 (i) creates a substantial risk of death;

23 (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or
24 process of any a bodily member or organ; or

25 (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement
26 or protracted loss or impairment of the function or process of any a bodily member or organ.

27 (b) The term includes serious mental illness or impairment.

28 (65) "Sexual contact" means any touching of the sexual or other intimate parts of the person of
29 another for the purpose of arousing or gratifying the sexual desire of either party.

30 (66) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the

1 penis of another person, penetration of the vulva or anus of one person by ~~any~~ a body member of another
2 person, or penetration of the vulva or anus of one person by ~~any~~ a foreign instrument or object
3 manipulated by another person for the purpose of arousing or gratifying the sexual desire of either party.
4 Any penetration, however slight, is sufficient.

5 (67) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise
6 another to commit an offense.

7 (68) "State" or "this state" means the state of Montana, all the land and water in respect to
8 which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the
9 land and water.

10 (69) "Statute" means ~~any~~ an act of the legislature of this state.

11 (70) "Stolen property" means property over which control has been obtained by theft.

12 (71) A "stop" is the temporary detention of a person that results when a peace officer orders the
13 person to remain in the peace officer's presence.

14 (72) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted
15 alterations in its existing condition, or deposit refuse upon it.

16 (73) "Threat" means a menace, however communicated, to:

17 (a) inflict physical harm on the person threatened or any other person or on property;

18 (b) subject any person to physical confinement or restraint;

19 (c) commit ~~any~~ a criminal offense;

20 (d) accuse ~~any~~ a person of a criminal offense;

21 (e) expose ~~any~~ a person to hatred, contempt, or ridicule;

22 (f) harm the credit or business repute of ~~any~~ a person;

23 (g) reveal ~~any~~ information sought to be concealed by the person threatened;

24 (h) take action as an official against anyone or anything, withhold official action, or cause the
25 action or withholding;

26 (i) bring about or continue a strike, boycott, or other similar collective action if the person making
27 the threat demands or receives property that is not for the benefit of groups that the person purports to
28 represent; or

29 (j) testify or provide information or withhold testimony or information with respect to another's
30 legal claim or defense.

1 (74) (a) "Value" means the market value of the property at the time and place of the crime or,
2 if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within
3 a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the
4 value must be determined as follows:

5 (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or
6 promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of
7 the indebtedness less any portion of the indebtedness that has been satisfied.

8 (ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any
9 valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of
10 the instrument might reasonably suffer by virtue of the loss of the instrument.

11 (iii) The value of electronic impulses, electronically produced data or information, computer
12 software or programs, or any other tangible or intangible item relating to a computer, computer system,
13 or computer network is considered to be the amount of economic loss that the owner of the item might
14 reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss
15 includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition
16 of the item.

17 (b) When it cannot be determined if the value of the property is more or less than ~~\$500~~ \$1,000
18 by the standards set forth in subsection (74)(a), its value is considered to be an amount less than ~~\$500~~
19 \$1,000.

20 (c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
21 whether from the same person or several persons, may be aggregated in determining the value of the
22 property.

23 (75) "Vehicle" means ~~any~~ a device for transportation by land, water, or air or by mobile
24 equipment, with provision for transport of an operator.

25 (76) "Weapon" means ~~any~~ an instrument, article, or substance that, regardless of its primary
26 function, is readily capable of being used to produce death or serious bodily injury.

27 (77) "Witness" means a person whose testimony is desired in ~~any~~ an official proceeding, in any
28 investigation by a grand jury, or in a criminal action, prosecution, or proceeding."
29

30 Section 2. Section 45-6-101, MCA, is amended to read:

1 "45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person
2 knowingly or purposely:

- 3 (a) injures, damages, or destroys any property of another or public property without consent;
4 (b) without consent tampers with property of another or public property so as to endanger or
5 interfere with persons or property or its use;
6 (c) damages or destroys property with the purpose to defraud an insurer; or
7 (d) fails to close a gate previously unopened ~~which~~ that the person has opened, leading in or out
8 of any enclosed premises. This does not apply to gates located in cities or towns.

9 (2) A person convicted of criminal mischief must be ordered to make restitution in an amount and
10 manner to be set by the court. The court shall determine the manner and amount of restitution after full
11 consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the
12 convicted person, the court may modify any previous order specifying the amount and manner of
13 restitution. Full payment of the amount of restitution ordered must be made prior to the release of state
14 jurisdiction over the person convicted.

15 (3) A person convicted of the offense of criminal mischief shall be fined not to exceed ~~\$500~~
16 \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender
17 commits the offense of criminal mischief and causes pecuniary loss in excess of ~~\$500~~ \$1,000, injures
18 or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of
19 public communication, transportation, supply of water, gas, or power, or other public services, the
20 offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for ~~any a~~
21 term not to exceed 10 years, or both.

22 (4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same
23 transaction, whether against the public or the same person or several persons, may be aggregated in
24 determining pecuniary loss."
25

26 Section 3. Section 45-6-103, MCA, is amended to read:

27 "45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or
28 explosives, the person knowingly or purposely:

- 29 (a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds
30 ~~\$500~~ \$1,000 in value, crop, pasture, forest, or other real property that is property of another without

1 consent;

2 (b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the
3 person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain
4 through fraud or deception; or

5 (c) places another person in danger of death or bodily injury, including a firefighter responding to
6 or at the scene of a fire or explosion.

7 (2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term
8 not to exceed 20 years or be fined an amount not to exceed \$50,000, or both."

9
10 Section 4. Section 45-6-301, MCA, is amended to read:

11 "45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or
12 knowingly obtains or exerts unauthorized control over property of the owner and:

13 (a) has the purpose of depriving the owner of the property;

14 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives
15 the owner of the property; or

16 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
17 probably will deprive the owner of the property.

18 (2) A person commits the offense of theft when the person purposely or knowingly obtains by
19 threat or deception control over property of the owner and:

20 (a) has the purpose of depriving the owner of the property;

21 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives
22 the owner of the property; or

23 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
24 probably will deprive the owner of the property.

25 (3) A person commits the offense of theft when the person purposely or knowingly obtains
26 control over stolen property knowing the property to have been stolen by another and:

27 (a) has the purpose of depriving the owner of the property;

28 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives
29 the owner of the property; or

30 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment

1 probably will deprive the owner of the property.

2 (4) A person commits the offense of theft when the person purposely or knowingly obtains or
3 exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state
4 or county agency, regardless of the original source of assistance, by means of:

5 (a) a knowingly false statement, representation, or impersonation; or

6 (b) a fraudulent scheme or device.

7 (5) A person commits the offense of theft when the person purposely or knowingly obtains or
8 exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under
9 Title 39, chapter 71 or 72, by means of:

10 (a) a knowingly false statement, representation, or impersonation; or

11 (b) deception or other fraudulent action.

12 (6) A person commits the offense of theft when the person purposely or knowingly commits
13 insurance fraud as provided in 33-1-1202.

14 (7) (a) A person convicted of the offense of theft of property not exceeding ~~500~~ \$1,000 in value
15 shall be fined not to exceed ~~500~~ \$1,000 or be imprisoned in the county jail for any term not to exceed
16 6 months, or both. A person convicted of a second offense shall be fined ~~500~~ \$1,000 or be imprisoned
17 in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent
18 offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or
19 more than 6 months.

20 (b) A person convicted of the offense of theft of property exceeding ~~500~~ \$1,000 in value or
21 theft of any commonly domesticated hooved animal shall be fined not to exceed \$50,000 or be imprisoned
22 in the state prison for any term not to exceed 10 years, or both.

23 (8) Amounts involved in thefts committed pursuant to a common scheme or the same
24 transaction, whether from the same person or several persons, may be aggregated in determining the
25 value of the property."

26
27 **Section 5.** Section 45-6-309, MCA, is amended to read:

28 **"45-6-309. Failure to return rented or leased personal property.** (1) A person commits the offense
29 of failure to return rented or leased personal property if, without notice to and permission of the lessor,
30 the person purposely and knowingly fails to return the property within 48 hours after the time provided

1 for return in the rental agreement, provided that clear written notice, in bold print, of the date and time
2 when return of the property is required and of the penalty prescribed in this section is stated in the rental
3 or lease agreement.

4 (2) Presentation to the lessor by the lessee of identification that is false for the purpose of
5 obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.

6 (3) After the rental or lease period specified in the rental or lease agreement has expired, failure
7 to return rented or leased personal property within 72 hours of written demand by the lessor, sent by
8 certified mail to the renter or lessee at the address given at the time of entering the rental or lease
9 agreement, constitutes prima facie evidence of commission of the offense.

10 (4) (a) A person convicted of failure to return rented or leased personal property not exceeding
11 ~~¥500~~ \$1,000 in value shall be fined not to exceed ~~¥500~~ \$1,000 or be imprisoned in the county jail for a
12 term not to exceed 6 months, or both.

13 (b) A person convicted of failure to return rented or leased personal property exceeding ~~¥500~~
14 \$1,000 in value shall be imprisoned in the state prison for a term not to exceed 10 years."

15
16 Section 6. Section 45-6-311, MCA, is amended to read:

17 "45-6-311. Unlawful use of a computer. (1) A person commits the offense of unlawful use of a
18 computer if the person knowingly or purposely:

19 (a) obtains the use of any computer, computer system, or computer network without consent
20 of the owner;

21 (b) alters or destroys or causes another to alter or destroy a computer program or computer
22 software without consent of the owner; or

23 (c) obtains the use of or alters or destroys a computer, computer system, computer network, or
24 any part thereof as part of a deception for the purpose of obtaining money, property, or computer services
25 from the owner of the computer, computer system, computer network, or part thereof or from any other
26 person.

27 (2) A person convicted of the offense of unlawful use of a computer involving property not
28 exceeding ~~¥500~~ \$1,000 in value shall be fined not to exceed ~~¥500~~ \$1,000 or be imprisoned in the county
29 jail for a term not to exceed 6 months, or both. A person convicted of the offense of unlawful use of a
30 computer involving property exceeding ~~¥500~~ \$1,000 in value shall be fined not more than 2 1/2 times the

1 value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term
2 not to exceed 10 years, or both."

3
4 **Section 7.** Section 45-6-312, MCA, is amended to read:

5 **"45-6-312. Unauthorized acquisition or transfer of food stamps.** (1) A person commits the offense
6 of unauthorized acquisition or transfer of food stamps if the person knowingly:

7 (a) acquires, purchases, possesses, or uses any food stamp or coupon that the person is not
8 entitled to; or

9 (b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon to another
10 person not entitled to receive or use it.

11 (2) A person convicted of an offense under this section shall be fined not more than ~~\$500~~ \$1,000
12 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense
13 under this section, which offense is part of a common scheme or in which the value of the food stamps
14 exceeds ~~\$500~~ \$1,000, shall be fined not more than \$50,000 or be imprisoned in the state prison for not
15 more than 10 years, or both.

16 (3) As used in this section, "food stamp or coupon" means any stamp, coupon, or type of
17 certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C.
18 2011 through 2029, or any similar public assistance program."

19
20 **Section 8.** Section 45-6-313, MCA, is amended to read:

21 **"45-6-313. Medicaid fraud.** (1) A person commits the offense of medicaid fraud when:

22 (a) the person obtains a medicaid payment or benefit for the person or another person by
23 purposely or knowingly:

24 (i) making, submitting, or authorizing the making or submitting of a false or misleading medicaid
25 claim, statement, representation, application, or document to a medicaid agency for a service or item
26 when the person knows or has reason to know that the person is not entitled under applicable statutes,
27 regulations, rules, or policies to medicaid payment or benefits for the service or item or for the amount
28 of payment requested or claimed; or

29 (ii) making, submitting, or authorizing the making or submitting of a medicaid claim, statement,
30 representation, application, or document under the medicaid program for a service or item when the

1 person knows or has reason to know that the person is not entitled under applicable statutes, regulations,
2 rules, or policies to medicaid payment or benefit for the service or item or for the amount of payment
3 requested or claimed;

4 (b) the person purposely or knowingly:

5 (i) solicits, accepts, offers, or provides any remuneration, including but not limited to a kickback,
6 bribe, or rebate, other than an amount legally payable under the medical assistance program, for
7 furnishing services or items for which payment may be made under the medicaid program or in return for
8 purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any
9 services or items from a provider for which payment may be made under the medicaid program; or

10 (ii) makes, offers, or accepts a remuneration, a rebate of a fee, or a charge for referring a recipient
11 to another provider for the furnishing of services or items for which payment may be made under the
12 medicaid program; or

13 (c) the person, with respect to a managed care contract, health maintenance organization
14 contract, or similar contract or subcontract under the medicaid program, purposely or knowingly fails or
15 refuses to provide covered medically necessary services to eligible recipients as required by the contract.

16 (2) Any conduct or activity that does not violate or that is protected under the provisions of, or
17 federal regulations adopted under, 42 U.S.C. 1395nn or 42 U.S.C. 1320a-7b(b), as may be amended, is
18 not considered an offense under subsection (1)(b), and the conduct or activity must be accorded the same
19 protections allowed under federal laws and regulations.

20 (3) In a prosecution for a violation of this section, it is a defense if the person acted in reliance
21 upon the written authorization or advice of the department.

22 (4) (a) A person convicted of the offense of medicaid fraud involving payments, benefits, or
23 claims not exceeding ~~\$500~~ \$1,000 in value shall be fined an amount not to exceed ~~\$500~~ \$1,000 or be
24 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second
25 offense shall be fined ~~\$500~~ \$1,000 and be imprisoned in the county jail for a term not less than 10 days
26 or more than 6 months. A person convicted of a third or subsequent offense shall be fined \$1,000 and
27 be imprisoned in the county jail for a term not less than 30 days or more than 1 year.

28 (b) A person convicted of the offense of medicaid fraud involving payments, benefits, or claims
29 exceeding ~~\$500~~ \$1,000 in value shall be fined an amount not to exceed the greater of \$50,000 or 10
30 times the value of the payments obtained or be imprisoned in the state prison for a term not to exceed

1 10 years, or both.

2 (c) For purposes of imposing sentence for a conviction under subsection (1)(b), the value of
3 payments or benefits involved is the greater of the value of medicaid payments or benefits received as
4 a result of the illegal conduct or activity or the value of the remuneration, rebate, or charge involved.

5 (d) Amounts involved in medicaid fraud committed pursuant to a common scheme or the same
6 transaction may be aggregated in determining the value involved.

7 (e) A person convicted of the offense of medicaid fraud must be suspended from participation
8 in the medicaid program:

9 (i) for any period of time not less than 1 year for a first offense, or the person may be
10 permanently terminated from participation in the medical assistance program;

11 (ii) for any period of time not less than 3 years for a second offense, or the person may be
12 permanently terminated from participation in the medical assistance program; or

13 (iii) permanently for a third offense.

14 (5) In addition to any other penalty provided by law, a person convicted of medicaid fraud is not
15 entitled to bill or collect from the recipient, the medicaid program, or any other third-party payor for the
16 services or items involved and shall repay to the medicaid program any payments or benefits obtained by
17 any person for the services or items involved.

18 (6) The establishment of the criminal offenses specified in this section does not preclude the
19 application of any other provision of law."

20
21 **Section 9. Section 45-6-316, MCA, is amended to read:**

22 **"45-6-316. Issuing a bad check.** (1) A person commits the offense of issuing a bad check when
23 the person issues or delivers a check or other order upon a real or fictitious depository for the payment
24 of money knowing that it will not be paid by the depository.

25 (2) If the offender has an account with the depository, failure to make good the check or other
26 order within 5 days after written notice of nonpayment has been received by the issuer is prima facie
27 evidence that the offender knew that it would not be paid by the depository.

28 (3) A person convicted of issuing a bad check shall be fined not to exceed ~~\$500~~ \$1,000 or be
29 imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender has engaged
30 in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services

1 obtained or attempted to be obtained exceeds ~~\$500~~ \$1,000, the offender shall be fined not to exceed
2 \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both."
3

4 **Section 10.** Section 45-6-317, MCA, is amended to read:

5 **"45-6-317. Deceptive practices.** (1) A person commits the offense of deceptive practices when
6 the person purposely or knowingly:

7 (a) causes another, by deception or threat, to execute a document disposing of property or a
8 document by which a pecuniary obligation is incurred;

9 (b) makes or directs another to make a false or deceptive statement addressed to the public or
10 any person for the purpose of promoting or procuring the sale of property or services;

11 (c) makes or directs another to make a false or deceptive statement to any person respecting the
12 financial condition of the person making or directing another to make the statement for the purpose of
13 procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting
14 to procure a loan or credit regarding that person's financial condition; or

15 (d) obtains or attempts to obtain property, labor, or services by any of the following means:

16 (i) using a credit card ~~which~~ that was issued to another without the other's consent;

17 (ii) using a credit card that has been revoked or canceled;

18 (iii) using a credit card that has been falsely made, counterfeited, or altered in any material
19 respect;

20 (iv) using the pretended number or description of a fictitious credit card;

21 (v) using a credit card that has expired when the credit card clearly indicates the expiration date.

22 (2) A person convicted of the offense of deceptive practices shall be fined not to exceed ~~\$500~~
23 \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive
24 practices are part of a common scheme or the value of any property, labor, or services obtained or
25 attempted to be obtained exceeds ~~\$500~~ \$1,000, the offender shall be fined not to exceed \$50,000 or
26 be imprisoned in the state prison for a term not to exceed 10 years, or both."
27

28 **Section 11.** Section 45-6-325, MCA, is amended to read:

29 **"45-6-325. Forgery.** (1) A person commits the offense of forgery when with purpose to defraud
30 the person knowingly:

1 (a) without authority makes or alters ~~any~~ a document or other object apparently capable of being
2 used to defraud another in a manner that it purports to have been made by another or at another time or
3 with different provisions or of different composition;

4 (b) issues or delivers the document or other object knowing it to have been thus made or altered;

5 (c) possesses with the purpose of issuing or delivering any such document or other object
6 knowing it to have been thus made or altered; or

7 (d) possesses with knowledge of its character any plate, die, or other device, apparatus,
8 equipment, or article specifically designed for use in counterfeiting or otherwise forging written
9 instruments.

10 (2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter,
11 or terminate any right, obligation, or power with reference to any person or property.

12 (3) A document or other object capable of being used to defraud another includes but is not
13 limited to one by which any right, obligation, or power with reference to any person or property may be
14 created, transferred, altered, or terminated.

15 (4) A person convicted of the offense of forgery shall be fined not to exceed ~~\$500~~ \$1,000 or be
16 imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is part of a
17 common scheme or if the value of the property, labor, or services obtained or attempted to be obtained
18 exceeds ~~\$500~~ \$1,000, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state
19 prison for any term not to exceed 20 years, or both."

20
21 **Section 12.** Section 45-7-210, MCA, is amended to read:

22 **"45-7-210. False claims to public agencies.** (1) A person commits an offense under this section
23 if the person purposely and knowingly presents for allowance or for payment any false or fraudulent claim,
24 bill, account, voucher, or writing to any public agency, public servant, or contractor authorized to allow
25 or pay claims presented to public agencies if genuine.

26 (2) (a) Except as provided in subsection (2)(b), a person convicted of an offense under this section
27 shall be fined not to exceed ~~\$500~~ \$1,000 or imprisoned in the county jail for a term not to exceed 6
28 months, or both.

29 (b) If false or fraudulent claims are submitted purposely and knowingly as part of a common
30 scheme or if the value of the claim or the aggregate value of all claims exceeds ~~\$500~~ \$1,000, a person

1 convicted of an offense under this section shall be fined not to exceed \$10,000 or imprisoned in the state
2 prison for a term not to exceed 10 years, or both."

3 - END -

FISCAL NOTE

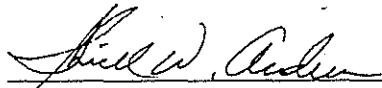
Bill #: HB0255

Title: Increase felony threshold for property crimes

Primary

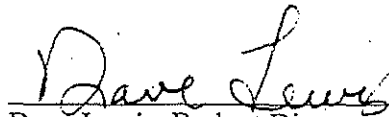
Sponsor: Shiell Anderson

Status: As introduced



Sponsor signature

Date



Dave Lewis, Budget Director

1-11-99

Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

Yes	No		Yes	No	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The Department of Corrections (DOC) assumes that this bill will not significantly impact the number of offenders currently charged for felony property crimes. While not measurable, it is the DOC belief that the majority of offenders sent to the DOC, for the crimes listed in this bill, are for crimes involving property valued above \$1,000. Therefore neither prison populations nor probation caseloads would be significantly reduced. A judgment sample of 22 adult theft instances showed that only one of these cases may have been affected by this law change.
2. The DOC assumes that this bill will not significantly impact juvenile placement costs. The DOC uses a juvenile offender guideline system that determines the reasonableness of juvenile placement. This guideline system places a greater factor on criminal behavior chronicity, than it does the legal category (misdemeanor vs. felony) of a crime.
3. There is no fiscal impact to the Department of Revenue.
4. There is no fiscal impact to the Department of Justice.

HB 255

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The effect on county and local expenditures is not measurable, but the DOC does not believe that they will be significant. Missoula, Rosebud and Yellowstone counties have county probation offices with a supervision option. This bill may increase their workload. Also, since this bill may increase those offenses classified as misdemeanor, the lower courts may experience more court cases.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN ROBERT C. CLARK, on January 18, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Aubyn A. Curtiss (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s)	HB 47, HB 255, HB 213, HB 127, 1/18/1999
Date Posted	1/12/1999

Executive Action: HB 255, Do Pass HB 176 Do Pass
Tabled HB 16, Tabled HB 146

Chairman Robert Clark opened the meeting.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 34}

HEARING ON HB 47

Sponsor:

Rep. S. Anderson presented HB 47.

{Tape : 1; Side : A; Approx. Time Counter : 34 - 81}

EXHIBIT(1)

Proponents:

Frank Cote, Montana State Auditor

{Tape : 1; Side : A; Approx. Time Counter : 81 - 104}

Jacqueline Lenmark, American Insurance Association

{Tape : 1; Side : A; Approx. Time Counter : 104 - 123}

EXHIBIT(2)

Vern Bertelssen, Montana Senior Citizens Association

{Tape : 1; Side : A; Approx. Time Counter : 123 - 132}

Greg VanHorsen, State Farmer's Insurance Co.

{Tape : 1; Side : A; Approx. Time Counter : 132 - 156}

EXHIBIT(3)

Susan Witte, Blue Cross/Blue Shield

{Tape : 1; Side : A; Approx. Time Counter : 156 - 168}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 168 - 249}

Closing by Sponsor:

Rep. Anderson made closing remarks.

{Tape : 1; Side : A; Approx. Time Counter : 249 - 270}

HEARING ON HB 255

Sponsor:

Rep. Anderson presented HB 255.

{Tape : 1; Side : A; Approx. Time Counter : 270 - 331}

EXHIBIT(4)

Proponents:

John Connor, Montana County Attorneys Association

{Tape : 1; Side : A; Approx. Time Counter : 331 - 425}

Christine Cook, Big Horn County Attorney

{Tape : 1; Side : A; Approx. Time Counter : 425 - 550}

Marty Lambert, Gallatin County Attorney

{Tape : 1; Side : B; Approx. Time Counter : 0 - 51}

Mike McGrath, Lewis & Clark County Attorney

{Tape : 1; Side : B; Approx. Time Counter : 51 - 75}

Randi Hood, Lewis & Clark County Pubic Defender

{Tape : 1; Side : B; Approx. Time Counter : 75 - 104}

Charles Brooks, Yellowstone County Commissioner

{Tape : 1; Side : B; Approx. Time Counter : 104 - 127}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 127 - 167}

Closing by Sponsor:

Rep. S. Anderson made closing remarks.

{Tape : 1; Side : B; Approx. Time Counter : 167 - 180}

HEARING ON HB 213

Sponsor:

Rep. McGee presented HB 213.

{Tape : 1; Side : B; Approx. Time Counter : 180 - 233}

EXHIBIT(5)

Proponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 56 - 105}

Chairman Clark relinquished chair to McGee

{Tape : 3; Side : A; Approx. Time Counter : 105 - 252}

EXHIBIT(7)

EXHIBIT(8)

{Tape : 3; Side : A; Approx. Time Counter : 252 - 550}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 270}

Closing by Sponsor:

Rep. Johnson waived closing.

EXECUTIVE ACTION ON HB 16

Motion/Vote: Rep. Anderson moved that HB 16 be tabled. Motion carried 16-2 with Gallus and Hurdle voting no. Chairman Clark was absent at this time.

EXECUTIVE ACTION ON HB 255

Motion/Vote: Rep. Ahner moved that HB 255 be PASSED. Motion carried 17-1 with Molnar voting no. Chairman Clark was absent at this time.

EXECUTIVE ACTION ON HB 176

Motion/Vote: Rep. Younkin moved that HB 176 be PASSED. Motion carried unanimously.

Discussion on HB 42, was decided to postpone HB 42 to a later date.

EXHIBIT(9)

EXHIBIT(10)

EXHIBIT(11)

EXECUTIVE ACTION ON HB 146

Substitute Motion: Rep. Facey made a motion that HB 146 be PASSED as amended.

FISCAL NOTE**NOT FOR
DISTRIBUTION**

Bill #: HB0255

Title: Increase felony threshold for property crimes

Primary

Sponsor: Shiell Anderson

Status: As introduced

EXHIBIT

DATE

HB 255

Sponsor signature

Date

Dave Lewis, Budget Director

Date

Fiscal Summary

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
Expenditures:	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

Yes No

X

Significant Local Gov. Impact

X

Included in the Executive Budget

Yes No

X

Technical Concerns

X

Significant Long-Term Impacts

Fiscal Analysis**ASSUMPTIONS:**

1. The Department of Corrections (DOC) assumes that this bill will not significantly impact the number of offenders currently charged for felony property crimes. While not measurable, it is the DOC belief that the majority of offenders sent to the DOC, for the crimes listed in this bill, are for crimes involving property valued above \$1,000. Therefore neither prison populations nor probation caseloads would be significantly reduced. A judgment sample of 22 adult theft instances showed that only one of these cases may have been affected by this law change.
2. The DOC assumes that this bill will not significantly impact juvenile placement costs. The DOC uses a juvenile offender guideline system that determines the reasonableness of juvenile placement. This guideline system places a greater factor on criminal behavior chronicity, than it does the legal category (misdemeanor vs. felony) of a crime.
3. There is no fiscal impact to the Department of Revenue.
4. There is no fiscal impact to the Department of Justice.

NOT FOR DISTRIBUTION

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The effect on county and local expenditures is not measurable, but the DOC does not believe that they will be significant. Missoula, Rosebud and Yellowstone counties have county probation offices with a supervision option. This bill may increase their workload. Also, since this bill may increase those offenses classified as misdemeanor, the lower courts may experience more court cases.

HOUSE OF REPRESENTATIVE ROLL CALL

JUDICIARY

COMMITTEE

DATE 1/18/09

NAME	PRESENT	ABSENT	EXCUSED
Robert C. Clark, chair	/		
Dan McGee, vice chair	/		
Diana Wyatt, vice chair	/		
Chris Ahner	/		
Shiell Anderson	/		
Paul Clark	/		
Aubyn A. Curtiss			/
Bill Eggers	/		
Tom Facey	/		
Steven Gallus	/		
Gail Gutsche	/		
Jean Hurdle	/		
Rick Jore	/		
Sam Kitzenberg	/		
Brad Molnar	/		
Mark Noenning	/		
Jim Shockley	/		
Loren Soft	/		
Carol Williams	/		
Cindy Younkin	/		



HOUSE STANDING COMMITTEE REPORT

January 18, 1999

Page 1 of 1

Mr. Speaker:

We, your committee on Judiciary report that House Bill 255 (first reading copy -- white) do pass.

Signed: Robert C. Clark
Representative Robert C. Clark, Chair

- END -

ss.
3:20
1-18

Committee Vote:
Yes 17, No 1.

131513SC.ham

244

MONTANA HOUSE OF REPRESENTATIVES VISITORS REGISTER

HOUSE JUDICIARY COMMITTEE

DATE

1/18/99

BILL NO.

HB255

SPONSOR(S)

Anderson, S

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
P	Marty Lambert	615 S. 16th, Bozeman	Gallatin County
P	Christine A. Cooke	Big Horn Co. Court House	Big Horn Co.
P	John Connor	A.G.	MT County Atty's Assoc
P	MIKE MYRAN	Heena	"
P	Raymond Hood	Helena	S.E.C. City Pub. Dir.
P	Charles R. Brooks	Billings	Yellowstone County

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By VICE CHAIRMAN AL BISHOP, on March 19, 1999 at
9:04 A.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Lorents Grosfield, Chairman (R)

Members Absent: None.

Staff Present: Delila Croucher, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 255, HB 296, HB 361, HB 396

Executive Action: HB 296, HB 361, HB 255, HB 81,
HB 283

HEARING ON HB 255

Sponsor: REP. SHEILL ANDERSON, HD 25, Park County

Proponents: Dennis Paxinos, Yellowstone County Attorney
Marty Lambart, Gallatin County, County Attorney's
Association
Elizabeth Horseman, County Prosecutor's Bureau

Mike McGrath, County Attorney

Opponents: Robert Throssell, MT Magistrates Association

Opening Statement by Sponsor:

REP. SHEILL ANDERSON opened on the bill. This bill addresses property crimes of criminal mischief, arson, theft, failure to return rented properties, unlawful use of a computer, unauthorized acquisition of food stamps, medicaid fraud, issuing bad checks, deceptive facts, and false claims to a public agency. What is happening now, because of our limits, is that a lot of property crimes end up in district court. Currently, our district courts are plugged up. Due to this, some property crimes get pushed back and back, the result of which is that the victims don't get their day in court, at least not in a timely manner. What this bill would do, is put some of the cases into the city courts and the J.P. courts. These lower courts are more creative in their sentencing, they are more likely to award jail time, and they are more likely to award restitution for property crimes. This bill has been referred to as the cost of living adjustment for criminals. It will raise the limit from \$500 to \$1000 and relieve some of the pressure on district courts.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 3.3}

Proponents' Testimony:

Dennis Paxinos, Yellowstone County Attorney, rose in support of the bill. The district courts are heavily burdened with case loads and this bill will help alleviate the courts. In addition, a greater sense of relief to victims will come out of this bill. We are seeing felons on too frequent of a basis and would be better handled on a misdemeanor level. It would be more appropriate to deal with felons once they have committed \$1000 worth of damage or more.

{Tape : 1; Side : A; Approx. Time Counter : 3.3 - 6.9}

Marty Lambart, Gallatin County Attorney, rose in support of the bill. This bill would lead to far quicker resolution to these cases. Shorter time frames tend to please victims. Offenders are far more apt to receive punishment in the lower courts as well.

{Tape : 1; Side : A; Approx. Time Counter : 6.9 - 10.2}

Elizabeth Horseman, County Prosecutor's Bureau, rose in support of the bill. Research across the state shows that 20-30% of property crimes would be affected by this bill, therefore reducing the number of cases processed before the district courts. For a lot of victims that fall in the lower dollar value amounts, district courts take a long time to deal with their

cases because they are a low priority. This bill does not effect domesticated animal cases or burglary. This bill may ultimately reduce the number of cases that go to the Supreme Court.

{Tape : 1; Side : A; Approx. Time Counter : 10.2 - 11.8}

Mike McGrath, Lewis and Clark County Attorney, rose in support of the bill. The number of felony cases filed has tremendously grown during his time as an attorney. The reason for that is not necessarily increased crime, although it has. Law enforcement has become a lot more effective in terms of apprehending offenders. We have also had a lot of laws that have been changed over the years, increasing the work load on district courts. This bill would help the district court. It does not impose a burden on the lower courts because cases have been shifting out of their care over the years.

{Tape : 1; Side : A; Approx. Time Counter : 11.8 - 13.7}

Opponents' Testimony:

Robert Throssell, Montana Magistrates Association, rose in opposition of the bill. The additional caseload imposed on the lower courts is a concern within the association. The general workload across the state is increasing. The division of that labor between the district courts and the magistrate courts is a concern. Each increase is not a basis to oppose changes. The practical effect is that the burden of the district court now is being shifted to the magistrates. Over time that will increase their workload.

{Tape : 1; Side : A; Approx. Time Counter : 13.7 - 16.2}

Questions from Committee Members and Responses:

SEN. BARTLETT asked if the bill addresses civil penalties for shoplifting. Mr. McGrath said that it should not be a problem. Existing statute is consistent with the changes made by this bill.

SEN. BARTLETT asked if juvenile shoplifters are handled under criminal provisions. Mr. McGrath said that they are handled through the youth court but these statutes would apply. The idea is to reduce future crime by showing the young offenders that there is an impact on what they do.

SEN. BARTLETT asked if statute should be changed or left alone. Mr. McGrath said that if the Committee were to change it, it would be consistent with the passage of the bill. SEN. BARTLETT asked if the statute contains a section that states that anything with a penalty of \$500 or six months in jail is a misdemeanor, anything greater is a felony. Mr. McGrath

that there is a provision that distinguishes between felonies and misdemeanors. It pertains to the amount of time that a person can be incarcerated. If someone can be incarcerated for a year, then it is a felony. Less than a year is considered a misdemeanor.

SEN. BARTLETT asked what the impact of this bill will be on the justice court. Mr. McGrath said that he does not think the justice courts will be outweighed by this bill. Many of the cases that fall within this property range get settled in justice court anyway. SEN. BARTLETT asked if the counties receive any reimbursement from the state for the cost of the justice courts. Mr. McGrath said he is not sure but he believes so. There are defense costs, expert witness costs, are reimbursable.

{Tape : 1; Side : A; Approx. Time Counter : 16.2 - 23.1}

SEN. HALLIGAN asked what the impact on J.P. Courts will be. It was stated that there are too many variables to accurately estimate impact.

{Tape : 1; Side : A; Approx. Time Counter : 23.1 - 25.7}

Closing by Sponsor:

REP. SHIELL ANDERSON, closed on his bill. The district court judges are more over-burdened than the local magistrate courts.

{Tape : 1; Side : A; Approx. Time Counter : 25.7 - 28.7}

HEARING ON HB 296

Sponsor: REP. JIM SHOCKLEY, HD 61, Victor

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. JIM SHOCKLEY opened on his bill. This bill relates to public administrators. Administrators handle probates that nobody else wants to deal with. In cases where this happens, the administrators get a percentage of the estate. Frequently, the administrator receives nothing. The administrator can also be appointed as conservator or guardian of an estate. This is happening more and more. As it is now, the most an administrator can make off of an estate is \$100 a year. In most situations it is not a big deal. But, on occasion, the administrator handles very significant amounts of money. In the event that there is

{Tape : 2; Side : A; Approx. Time Counter : 23.4 - 26.9}

Closing by Sponsor:

REP. NOENNIG closed on the bill

{Tape : 2; Side : A; Approx. Time Counter : 26.9 - 27.1}

EXECUTIVE ACTION ON HB 296

Motion/Vote: SEN. HALLIGAN moved that HB 296 BE CONCURRED IN.

Motion carried 6-0.

{Tape : 2; Side : A; Approx. Time Counter : 27.1 - 28.4}

EXECUTIVE ACTION ON HB 361

SEN. BARTLETT noted that on the face of the bill it does not make sense why some liens are included and some are not. No action was taken.

{Tape : 2; Side : A; Approx. Time Counter : 28.4 - 29.9}

EXECUTIVE ACTION ON HB 255

SEN. BARTLETT asked for an amendment to put the civil issue in at the same rates. No action was taken.

{Tape : 2; Side : A; Approx. Time Counter : 29.9 - 34.1}

EXECUTIVE ACTION ON HB 283

Motion/Vote: SEN. DOHERTY moved that HB 283 BE CONCURRED IN.

Motion carried 7-0.

EXECUTIVE ACTION ON HB 81

Motion/Vote: SEN. HALLIGAN moved that AMENDMENT HB008101.av1 BE CONCURRED IN. Motion carried 6-0. EXHIBIT(2)

Motion/Vote: SEN. HALLIGAN moved that HB 81 BE CONCURRED IN AS AMENDED. Motion carried 6-0.

DISCUSSION ON HB 115

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY SECOND MEETING

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on March 25, 1999
at 4:30 p.m. in Room 325 Capitol. Note: This is the second
meeting of the day.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Reiny Jabs (R)

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: HB 361, HB 407, HB 339,
HB 109, HB 482, HB 54, HB 59
HB 255

EXECUTIVE ACTION ON HB 361

Motion/Vote: SEN. HALLIGAN moved that HB 361 BE CONCURRED IN.
Motion carried unanimously - 8-0.

EXECUTIVE ACTION ON HB 255

Motion: SEN. BARTLETT moved that HB 255 BE AMENDED,
HB0025501.alk, EXHIBIT(7).

Discussion:

SEN. BARTLETT remarked that she has spoken to a person who owns a store in East Helena and uses the civil approach in every case. If there is a criminal charge of shoplifting, they would also go after the civil remedy.

Vote: Motion carried 7-1 with Grosfield voting no.

Motion/Vote: SEN. HOLDEN moved that HB 255 BE CONCURRED IN AS AMENDED. Motion carried unanimously - 8-0.

DATE 3-19-99

[illegible]

PCL XL error

Subsystem: IMAGE

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Operator: ReadImage

Position: 16

DATE 3-19-99

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 255, HB 296, HB 361
HB 396

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
L. REED WILLIAMS	208-890-7888	AMUSEMENT INDUSTRY	HB 396	X	
S. YEWUSIAK	406-724-3247	WESTERN MONTANA FAIR - MFLA	HB 396	8	
Dennis Paxinos	256-2870	Yellwstone Co Atty	HB 255	X	
Marty Lambert	582-2145	Gallatin County County Atty's Assn.	HB 255	X	
Al Smith	443-3124	MTLA	HB 396		X
Mike McQuinn	447-8221	CNTY ATTYS	255	X	
Robert Throssell	442-0230	MT MAGISTRATE ASSN.	255		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE ~~3-19-99~~ 3-19-99

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 255, HB 296, HB 361
HB 396

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Patrick Holt	677-2775	Self	396	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY